



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. 74 OF 2020

BETWEEN

KENYA DENTAL ASSOCIATION.....APPLICANT

VERSUS

KENYA MEDICAL PRACTITIONERS

AND DENTISTS COUNCIL.....RESPONDENT

AND

ORAL HEALTH ASSOCIATION

OF KENYA.....PROPOSED 1ST INTERESTED PARTY

ALEX LANG'AT.....PROPOSED 2ND INTERESTED PARTY

RULING

The Application

1. The Oral Health Association of Kenya and Alex Langát (hereinafter “the 1st and 2nd Proposed Interested Parties”) filed an application by way of a Notice of Motion dated 27th May 2020, seeking the following orders:

- 1. THAT this matter be certified as urgent and the same be heard on priority basis and in any case before the hearing of this matter;**
- 2. THAT this Honourable Court be pleased to join the Proposed Interested Parties as Interested Parties in these proceedings;**
- 3. THAT this Honourable Court be pleased to allow the Proposed Interested Parties to file a Response to the Application herein;**
- 4. THAT the *Ex Parte* Applicant to bear the costs of the Application herein.**

2. The application is supported by an affidavit sworn on the same date by the 2nd Proposed Interested Party. The main grounds for the application are that the instant judicial review proceedings are challenging the decision of the Respondents to register and license Auxiliary Cadre/Paradental Staff referred to as Community Oral Health Officers and Oral Health Officers with General Practice licenses, which the *ex parte* Applicant claims is contrary to Sections 4,6,13,15,16,17,20 and 22 of the Medical Practitioners and Dentist Act.

3. Further, that the Proposed 1st Interested Party is an association registered under the laws of Kenya and has a membership of over 1000 Community Oral Health workers, who are currently being registered and licensed by the Respondent herein and the Proposed 2nd Interested Party is the Chairman of the Proposed 1st Interested Party. Therefore, that the Proposed Interested Parties are the subject of these proceedings, and should not be excluded as the outcome thereof will affect them directly.

4. I note in this regard that the Proposed Interested Parties only annexed a copy of the 2nd Proposed Interested Party’s membership card of the 1st Proposed Interested Party as evidence of their claims. There is no certificate of registration of the 1st Proposed Interested Party that

was annexed as averred in the supporting affidavit, nor any evidence to show that the 2nd Proposed Interested Party is the Chairman of the 1st Proposed Interested Party as alleged.

The Orders

5. In the circumstances, I hereby direct and order as follows:

I. The Notice of Motion application dated 27th May 2020 is certified urgent.

II. The 1st and 2nd Proposed Interested Parties are granted leave to file and serve a supplementary affidavit annexing evidence of their respective registration and appointments.

III. The 1st and 2nd Proposed Interested Parties shall serve the *ex parte* Applicant and Respondent with (i) the Notice of Motion dated 27th May 2020 and supplementary affidavit if any (ii) skeletal submissions thereon, (iii) a copy of this ruling and (iv) a hearing notice, within seven (7) days of service of today's date.

IV. This matter shall be mentioned on 10th June 2020 before Hon. Mr. Justice Mativo for further directions.

V. In view of the Ministry of Health directives on the safeguards to be observed to stem the spread of the current COVID-19 pandemic, this Court shall hear the 1st and 2nd Proposed Interested Parties Notice of Motion on the basis of the electronic copies of the pleadings and written submissions filed by the parties.

VI. The parties shall file their pleadings, applications and written submissions electronically by sending them to the Deputy Registrar of the Judicial Review Division at judicialreview48@gmail.com with copies to asunachristine51@gmail.com, and shall avail electronic copies thereof in word format.

VII. The electronic copies of pleadings and documents sent by the parties shall be clearly and correctly titled to indicate the J.R Case Number, the description of the Party sending it (that is whether the *Ex Parte* Applicant, Respondent or Interested Party), and the nature of the pleading or document.

VIII. The service of pleadings and documents directed by the Court shall be by way of personal service and electronic mail, and in the case of service by way of electronic mail, the parties shall also email a copy of the documents so served to the Deputy Registrar of the Judicial Review Division at judicialreview48@gmail.com with copies to asunachristine51@gmail.com.

IX. The parties shall also be required to send to the Deputy Registrar of the Judicial Review Division their respective affidavits of service evidencing personal service, by way of electronic mail to judicialreview48@gmail.com with copies to asunachristine51@gmail.com.

X. The Deputy Registrar of the Judicial Review Division shall send a copy of these directions and the extracted orders to the 1st and 2nd Proposed Interested Parties by electronic mail by close of business on Wednesday, 3rd June 2020.

XI. The Deputy Registrar of the Judicial Review Division shall put this matter on the Division's causelist for mention on 10th June 2020 and bring it to the attention Hon. Mr. Justice Mativo on that date for directions.

XII. Parties shall be at liberty to apply.

6. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 2ND DAY OF JUNE 2020

P. NYAMWEYA

JUDGE